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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,809	12/24/2001	Thomas Bush	538-2con	5466

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New York, NY 10017

EXAMINER

PEREZ, ANGELICA

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 06/09/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,809

Applicant(s)

BUSH, THOMAS

Examiner

Angelica M. Perez

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eastman (Eastman et al.; US Patent No.: 5,208,449 A) in view of Nishiguchi (Nishiguchi et al.; US Patent No.: 6,695,477 B1).

Regarding claim 13, Eastman teaches of a cordless digital audio headphone comprising (figure 1, item 10): a pair of earphones connected to a headband (figure 1, items 20, "earphones", connected to item 12, "headband"), the earphones providing audible signals (column 2, lines 23-31; where it is inherent for earphones to provide audible signals); a memory unit disposed on the headband (figure 1, item 40 and figure 5, item 56); a processor disposed on the headband (figure 1, item 40 and figure 5, item 54), the processor coupled to the memory unit (figure 5, items 54 and 56).

Eastman does not teach where the memory unit is disposed for containing digitally stored audio information, where the processor is coupled to the memory unit for retrieving the digitally stored audio information; and digital to analog converter for receiving the digitally stored audio information, the converter providing the audible signal to the earphone.

In related art concerning an audio signal reproducing apparatus, Nishiguchi teaches where the memory unit is disposed for containing digitally stored audio information (column 2, lines 3-8), where the processor is coupled to the memory unit for retrieving the digitally stored audio information (column 2, lines 3-15; where the process of signal recovery performed by a processor); and digital to analog converter for receiving the digitally stored audio information (column 2, lines 12-14), the converter providing the audible signal to the earphone (column 2, lines 12-14).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to combine Eastman's portable terminal with Nishiguchi's storage and reproducing capabilities in order to obtain a portable device with processing capability for storing and reproducing audio signals so that the user is able to reproduce audio signals at his/her desired time and location.

Regarding claim 14, Eastman in view of Nishiguchi teaches all the limitations of claim 13. Nishiguchi further teaches where the memory unit contains a plurality of memory chips (column 8, lines 57-59), the processor programmably retrieving the digitally stored audio information from the memory chips (column 3, lines 24-36; the semiconductor memory is programmed to process and output the audio signals).

3. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eastman in view of Nishiguchi as applied to claims 13-14 above, and further in view of Mankovitz (Mankovitz, Roy J.; US Patent No.: RE37,131 E).

Regarding claim 15, Eastman in view of Nishiguchi teaches all the limitations of claim 13.

Eastman in view of Nishiguchi do not teach where the memory chips contain information corresponding to musical albums.

In related art concerning an apparatus for music and lyrics broadcasting, Mankovitz teaches where the memory chips contain information corresponding to musical albums (column 3, lines 55-65).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to combine Eastman's and Nishiguchi's chip memory with Mankovitz's information corresponding to musical albums in order to provide the listener with additional information that provides a reference frame regarding the albums.

Regarding claim 16, Eastman in view of Nishiguchi teaches all the limitations of claim 15. Mankovitz further teaches of control buttons coupled to the microprocessor for selecting a desired data file from which audio information is to be retrieved (column 20, lines 27-39) and for controlling the volume of audio signal being provided by the earphones (column 19, lines 22-25; where it is inherent for headphone apparatuses to have a volume control button).

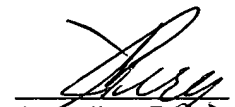
Regarding claim 17, Eastman in view of Nishiguchi teaches all the limitations of claim 16. Mankovitz further teaches of a display screen controlled by the processor for displaying information corresponding to the operation of the headphone including (column 17, lines 51-64), an indication of memory location from which digitally stored audio data is being retrieved (column 20, lines 6-10), and an indication of the title of album contained in the memory chip (column 2, lines 14-31; e.g., "text message" is displayed on a screen).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angelica Perez whose telephone number is 703-305-8724. The examiner can normally be reached on 7:15 a.m. - 3:55 p.m., Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2600's customer service number is 703-306-0377.


Angelica Perez
(Examiner)


NICK CORSARO
PATENT EXAMINER

Art Unit 2684

May 24, 2004